

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

JOHN GRIM,

Plaintiff,

vs.

No. CIV 19-10 MV/GBW

FEDEX GROUND PACKAGE  
SYSTEM, INC., et al.,

Defendants.

**ORDER ADOPTING MAGISTRATE JUDGE'S  
PROPOSED FINDINGS AND RECOMMENDED DISPOSITION**

This matter is before the Court on the Magistrate Judge's Proposed Findings and Recommended Disposition ("PFRD") (Doc. 70), recommending that the Court grant Defendant FedEx Ground Package System, Inc.'s Motion to Vacate and Set Aside Clerk's Entry of Default (Doc. 59).

Defendant's motion was referred to the Magistrate Judge to conduct hearings and perform legal analysis pursuant to 28 U.S.C. § 636(b)(1)(B), (b)(3) and *Va. Beach Fed. Sav. & Loan Ass'n v. Wood*, 901 F.2d 849 (10th Cir. 1990). *See* Doc. 67. The Magistrate Judge filed his PFRD on July 10, 2020. Doc. 70. Neither Plaintiff nor Defendants filed objections to the Magistrate Judge's PFRD within the allotted time. Appellate review of these issues is therefore waived. *See United States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1059–60 (10th Cir. 1996). Failure to object to the PFRD also waives the right to *de novo* review by the district court. *See id.* at 1060; *Thomas v. Arn*, 474 U.S. 140, 149–150 (1985). Nevertheless, the Court decided *sua sponte* to conduct a *de novo* review of the Magistrate Judge's findings in this case. *See One Parcel*, 73 F.3d at 1061. The Court hereby concurs with all of the factual and legal conclusions recited therein.

Wherefore, IT IS HEREBY ORDERED that the Magistrate Judge's Proposed Findings and Recommended Disposition (Doc. 70) are **ADOPTED**. Defendant FedEx Ground Package System, Inc.'s Motion to Vacate and Set Aside Clerk's Entry of Default (Doc. 59) is **GRANTED** and the Clerk's Entry of Default against Defendant Rafter J Bar Enterprise Inc. (Doc. 36) is **VACATED**.



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MARTHA AZQUEZ  
UNITED STATES DISTRICT JUDGE